

ORDINANCE NO. 20120607-015

AN ORDINANCE AMENDING ORDINANCE NO. 20120405-085 TO CORRECT A LEGAL DESCRIPTION FOR THE PROPERTY DESCRIBED IN ZONING CASE NO. C14-2011-0169.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The legal description for the property described in Part 1 of Ordinance No. 20120405-085 is amended as follows:

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from limited industrial service-neighborhood plan (LI-NP) combining district and general commercial services-neighborhood plan (CS-NP) combining district to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district on the property (the "Property") described in Zoning Case No. C14-2011-0169, on file at the Planning and Development Review Department, as follows:

Tract 1: From limited industrial service-neighborhood plan (LI-NP) combining district to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district.

A 2.50 acre tract of land, more or less, out of Lot 1, AHC Addition Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to map or plat of record in Volume 84, Page 48B of the Official Public Records of Travis County, Texas;

Tract 2: From general commercial services-neighborhood plan (CS-NP) combining district to general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district.

A 24.78 acre tract of land, more or less, out of Lot 1, Travis 51 Addition No. 2 Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to map or plat of record in Document No. 200100312, of the Official Public Records of Travis County, Texas; and,

A 5.917 [~~4.13~~] acre tract of land, more or less, out of Lot 2[~~4~~], Travis 51 Addition No. 2 Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to map or plat of record in Document No. 200100312, of the

Official Public Records of Travis County, Texas, SAVE AND EXCEPT the following tract of land:

A 1.78 acre tract of land, more or less, conveyed to the State of Texas in Cause No. 2289; *The State of Texas v. Ben White Land, LP, et al*, In the County Court at Law No. Two, Travis County, Texas, more particularly described in Exhibit A-1, attached and recorded [out of Lot 1, Travis 51 Addition No. 2 Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to map or plat of record] in Document No. 2002187425 [2006021463], of the Official Public Records of Travis County, Texas,

locally known as 7016 East Ben White Boulevard WB in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "A".

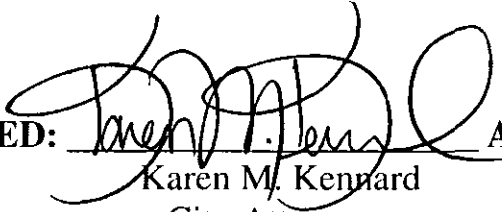
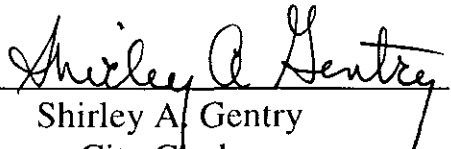
In all other respects the terms and conditions of Ordinance No. 20120405-085 remain in effect.

PART 2. This ordinance takes effect on June 18, 2012.

PASSED AND APPROVED

June 7, 2012 §
§
§

Lee Leffingwell
Mayor

APPROVED:  ATTEST: 
Karen M. Kennard
City Attorney
Shirley A. Gentry
City Clerk

CAUSE NO. 2289

THE STATE OF TEXAS § CONDEMNATION PROCEEDING
 §
 §
v. § IN THE
 §
 § COUNTY COURT AT LAW NO. TWO
 §
BEN WHITE LAND, L.P., ET AL § TRAVIS COUNTY, TEXAS

02 APR 15 AM 11:37
CLERK
TRAVIS COUNTY, TEXAS
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FINAL JUDGMENT

BE IT REMEMBERED that on February 25, 2002, the parties appeared through their attorneys of record and announced ready for trial. Ben White Park, L.P., having been dismissed from this proceeding, did not appear. The Frost National Bank and City of Austin did not appear at trial. A jury was selected and empaneled, and heard the evidence, charge of the Court, and argument of counsel. On the afternoon of February 28, 2002, the jury returned its verdict finding that the damages to the Landowners' property resulting from the condemnation were \$1,253,765.00 (One Million Two Hundred Fifty-three Thousand Seven Hundred Sixty-five and no/100s Dollars). The Court finds that this verdict is regular in its form, and should be made the basis of this Judgment. The Court also finds that on November 2, 1999, the State deposited the amount of the Award of the Special Commissioners being \$925,000.00 to the order of the Condemnee and that this deposit constitutes a correct and lawful offset to the damages found by the jury. The Court further finds that the Condemnee withdrew the award and otherwise admitted and stipulated to the right to take so that the State should be granted title to the real property and access rights which are sought in its pleadings.

I, the undersigned, County Clerk, Travis County,
do hereby certify that this is a true and
correct copy of the entire record as rendered in the within
captioned cause and that of filing it.



County Clerk, Travis County
By Deputy: P. Olson

APR 21 2002

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Exhibit A-1

IT is, therefore, ORDERED, ADJUDGED AND DECREED that the Condemnor, the State of Texas, does have and recover fee simple title to that tract of land located in Austin, Travis County, Texas and more particularly described in Exhibit "A," attached and incorporated by reference as if fully set out herein, HOWEVER, there is excluded from said estate all the oil, gas and sulphur which can be removed from beneath said land aforesaid without any right whatsoever remaining to the owner of such oil, gas and sulphur of ingress or egress to or from the surface of said land for the purpose of exploring, developing, drilling or mining of the same. The State is also granted permanent ownership of the access rights sought in its Petition and more particularly described in Exhibit "B," attached and incorporated by reference for all purposes as if fully set out.

It is further ORDERED, ADJUDGED AND DECREED, that TheFrost National Bank and City of Austin shall take nothing herein.

It is further, ORDERED, ADJUDGED AND DECREED, that the Condemnee, Ben White Land, L.P., a Texas Limited Partnership, do have and recover Judgment over and against the Condemnor, the State of Texas, for the principal sum of (\$328,765.00) (the principal sum), being the amount by which the finding of the jury exceeds the Award of Special Commissioners previously deposited. This principal sum shall bear pre-judgment interest at the rate of ten percent simple annual from November 2, 1999, to the date this Judgment is signed. The Condemnee is awarded its taxable costs. The total amount of the principal sum, pre-judgment interest awarded, and costs shall bear post-judgment interest at the rate of ten percent simple annual interest from the date this Judgment is signed until the

Joan DeBorwick County Clerk, Travis County
I do hereby certify that this is a true and
correct copy as same appears of record in my office.
Witness my hand and seal of office on

-2-



Joan DeBorwick, County Clerk
By Deputy P. Olson

AUG 21 2002

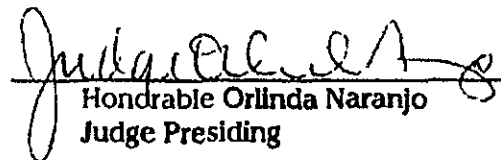
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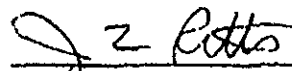
date it is finally paid. This Judgment is to be satisfied by delivery of a check or other fully negotiable funds to John McClish, Trustee for the Condemnee, Ben White Land, L.P. Each of the provisions of this Judgment may be enforced by appropriate process without further Order of the Court unless it is fully and timely observed.

As to all parties, any and all relief sought and not granted in this Judgment is hereby DENIED, it being the express intent of the Court that this document shall constitute the sole and appealable FINAL JUDGMENT in this case, finally disposing of all issues pending between these parties relating to the disputes arising on these pleadings.

SIGNED by me this 14 day of March, 2002.


Honorable Orlinda Naranjo
Judge Presiding

AGREED AS TO FORM:


John L. Ritts
State Bar No. 16956500
Assistant Attorney General
P.O. Box 12548
Austin, Texas 78711-2548
Telephone: (512) 463-2004
Facsimile: (512) 472-3855
ATTORNEY FOR CONDEMNOR

I, Dana DeBeauvoir, County Clerk, This County,
do hereby certify that this is a true and
correct copy as same appears of record in my office.
My hand and seal of office do

Dana DeBeauvoir, County Clerk
By Deputy P. Olson

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JOHN McCLISH
State Bar No. 13417000
WOMACK, McCLISH, WALL & FOSTER
1801 Lavaca, Suite 120
Austin, Texas 78701-1398
Telephone: (512) 474-9875
Facsimile: (512) 474-9894
ATTORNEY FOR CONDEMNEE

I, County Clerk, Travis County,
do hereby certify that this is a true and
correct copy as the same appears of record in my office.
Witness my hand and seal of office on

_____, of the said County Clerk

AUG 21 2002



County Clerk, Travis County
I hereby certify that this is a true and
correct copy of the record in my office.
Seal of office on

Deputy County Clerk
P. Olson

Page 1 of 2

COUNTY TRAVIS
HIGHWAY S.H. 71
LIMITS FROM WOODWARD ST TO F.M. 973
ACCOUNT 8014-1-75
C.S.J. NO. 0113-13-086



FIELD NOTES FOR PARCEL 40 (FEE TITLE)

BEING 1.783 ACRES OF LAND OUT OF LOT A, TRAVIS 51 ADDITION, A SUBDIVISION OF RECORD IN BOOK 78, PAGE 256 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, ALSO BEING A PART OF A 5.915 ACRE TRACT OF LAND CONVEYED TO BEN WHITE LAND, L.P., BY GENERAL WARRANTY DEED DATED JULY 30, 1997 OF RECORD IN VOLUME 12997, PAGES 4566 TO 4570 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2" rebar found for a POINT OF REFERENCE being an angle point in the west line of said Lot A, also being the west line of a 24.781 acre tract of land described in deed to Ben White Park, L.P. of record in Volume 12993, Page 1535 of the Real Property Records of Travis County, Texas for the northeast corner of Lot 1, AHC Addition, a subdivision of record in Book 84, Page 48B of the Plat Records of Travis County, Texas;

THENCE South 21°38'49" East with the west line of Lot A and the east line of said Lot 1 a distance of 250.29 feet to an aluminum cap found 175.00 feet left of and at right angles to Proposed Engineer's Centerline Station (E.C.S.) 10923+55.12 of State Highway No. 71 for the POINT OF BEGINNING being the southwest corner of the 24.781 acres and an angle point in a north line of the 5.915 acres from which an aluminum cap found at the intersection of the proposed north right-of-way line of State Highway No. 71 and the west line of Lot 1 bears South 68°19'19" West a distance of 374.04 feet;

1. THENCE North 68°19'19" East crossing through Lot A with the proposed north right-of-way line of State Highway No. 71 with the south line of the 24.781 acres and a north line of the 5.915 acres a distance of 277.05 feet to a 1/2" rebar with an aluminum cap set for the southeast corner of the 24.781 acres and an angle point in the west line of the 5.915 acres from which a 1/2" rebar found for the northwest corner of the 5.915 acres bears North 11°52'16" West a distance of 741.66 feet

2. THENCE North 68°19'19" East crossing through the 5.915 acres and Lot A with the proposed north right-of-way line of State Highway No. 71 distance of 253.61 feet to a aluminum cap set 175.00 feet left of and at right angles to Proposed E.C.S. 10928+85.78 of State Highway No. 71 in the east line of Lot A, the east line of the 5.915 acres, and the west line of Lot 1, Don Stewart Texaco Addition, a subdivision of record in Book 83, Page 144D of the Plat Records of Travis

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County, Texas from which a 1/2" rebar found for the northeast corner of Lot A and the northwest corner of said Lot 1, Don Stewart Texaco Addition bears North $11^{\circ}54'02''$ West a distance of 978.32 feet and an aluminum cap set at the intersection of the proposed north right-of-way line of State Highway No. 71 and the east line of Lot 1, Don Stewart Texaco Addition bears North $68^{\circ}19'19''$ East a distance of 300.04 feet;

3. THENCE South $11^{\circ}54'02''$ East with the east line of the 5.915 acres, the east line of Lot A, and west line of Lot 1, Don Stewart Texaco Addition a distance of 152.21 feet to a calculated point 25.00 feet left of and at right angles to Proposed E.C.S. 10928+59.93 of State Highway No. 71 in the existing north right-of-way line of State Highway No. 71 for the southeast corner of the 5.915 acres, the southeast corner Lot A, and the southwest corner of Lot 1, Don Stewart Texaco Addition from which a 5/8" rebar found bears North $11^{\circ}54'02''$ West a distance of 0.26 feet and a 1/2" rebar found for the southeast corner of Lot 1, Don Stewart Texaco Addition bears North $68^{\circ}19'19''$ East a distance of 300.11 feet,
4. THENCE South $68^{\circ}19'19''$ West with the existing north right-of-way line of State Highway No. 71, the south line of the 5.915 acres, and the south line of Lot A, a distance of 504.89 feet to a calculated point 25.00 feet left of and at right angles to Proposed E.C.S. 10923+55.04 of State Highway No. 71 for the southwest corner of the 5.915 acres, southwest corner of Lot A and the southeast corner of Lot 1, AHC Addition from which a 5/8" rebar found bears North $21^{\circ}38'49''$ West a distance of 0.36 feet and a calculated point for the southwest corner of Lot 1, AHC Addition bears South $68^{\circ}19'19''$ West a distance of 300.13 feet;
5. THENCE North $21^{\circ}38'49''$ West with west line of the 5.915 acres, the west line of Lot A, and the east line of Lot 1, AHC Addition a distance of 150.00 feet to the POINT OF BEGINNING.

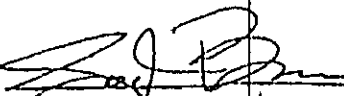
This parcel contains 1.783 acres of land, more or less, out of the Santiago Del Vallé Grant in Travis County, Texas.

Description prepared from an on-the-ground survey made February 11, 1997 and August 4, 1998.
Bearing basis is the Proposed Engineer's Centerline of State Highway No. 71 from Texas Department of Transportation Right-of-Way Map dated 2/21/89

Work Order Number, 0690-234

Attachments Survey Drawing N \SDSK\SUR\TXDOT\69023401 DWG

File.N \MSAPPS97\WORD\SUR\TXDOT\69023401 FN


Joseph Beavers
Registered Professional Land Surveyor
State of Texas No. 4938

Date

AUG. 98



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County Clerk, Travis County
I hereby certify that this is a true and
correct copy as same appears of record in my office
and seal of office on
Jana DeBeauvoir, County Clerk
Deputy P.O. Olson

EXHIBIT

B

CONTROL OF ACCESS CLAUSE

ACCOUNT NO
CSJ NO
COUNTY
HIGHWAY
LIMITS
PARCEL NO

8014-1-75
0113-13-086
Travis
SH 71
From Woodward Street to F M 973 at Del Valle
40

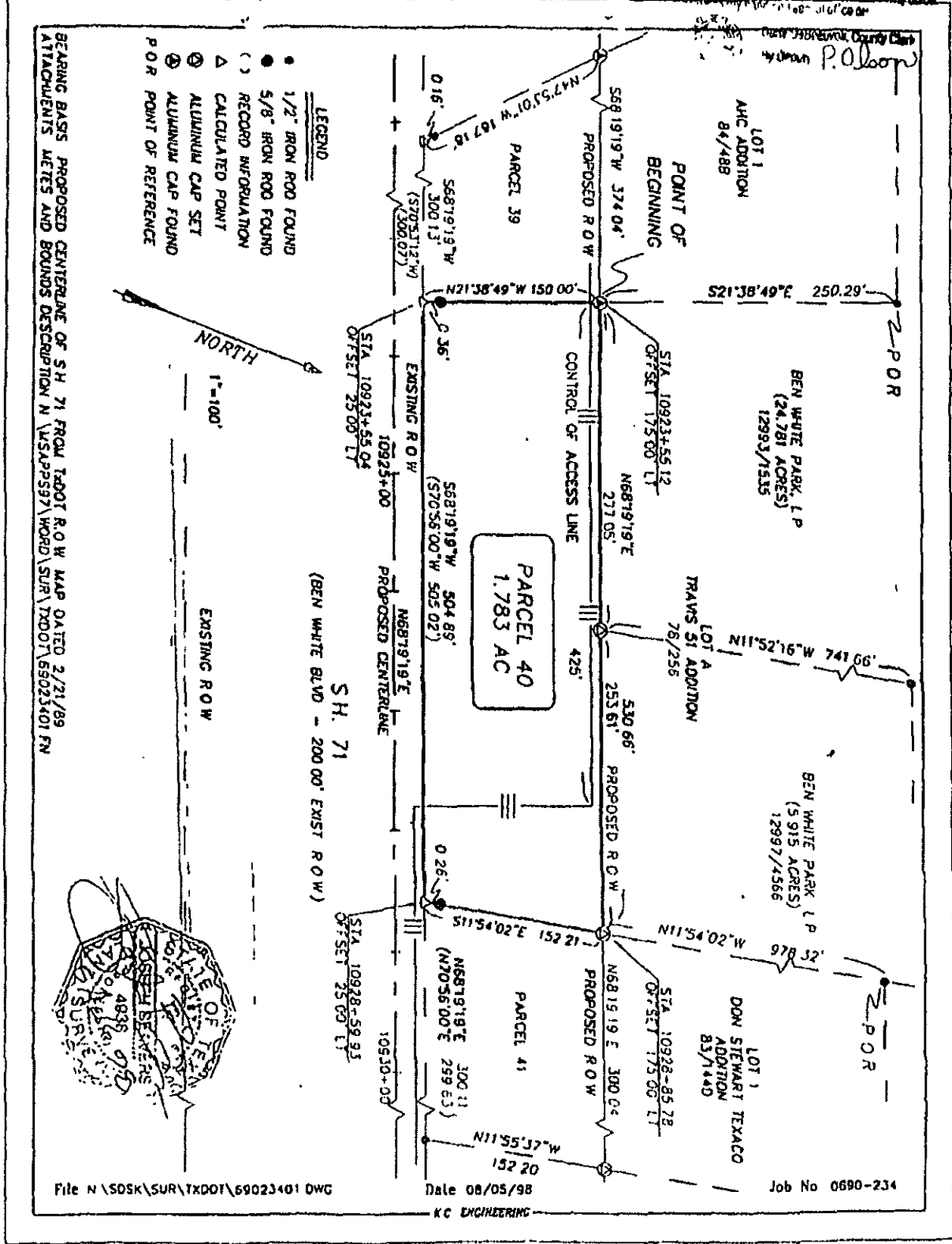
ACCESS TO AND FROM GRANTOR'S REMAINING PROPERTY WILL BE PERMITTED TO THE NORTH REMAINDER ABUTTING THE HIGHWAY FACILITY BETWEEN A POINT BEING 420 50 FEET N68°19'19"E OF THE BEGINNING OF THE FIRST CALL AND A POINT BEING THE BEGINNING OF THE SECOND CALL

ACCESS TO AND FROM GRANTOR'S REMAINING PROPERTY WILL BE DENIED TO THE NORTH REMAINDER ABUTTING THE HIGHWAY FACILITY BETWEEN A POINT BEING THE BEGINNING OF THE FIRST CALL AND A POINT BEING 420 50 FEET N68°19'19"E OF THE BEGINNING OF THE FIRST CALL

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AFTER RECORDING MAIL TO:

**THE TEXAS DEPARTMENT OF TRANSPORTATION
P.O. DRAWER 15426-NEAS
AUSTIN, TX 78761-5426**

ATTN: RIGHT OF WAY

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

10-03-2002 03 38 PM 2002187425
ZAVALLAR \$25.00
DANA DEBEAUVOIR, COUNTY CLERK
TRAVIS COUNTY, TEXAS

Recorders Memorandum-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded